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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/550,779	09/27/2005	Jacques Thibaut	THIBAUT2	1785

7590

10/13/2006

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EXAMINER

COURSON, TANIA C

ART UNIT

PAPER NUMBER

2859

DATE MAILED: 10/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/550,779

Applicant(s)

THIBAUT ET AL.

Examiner

Tania C. Courson

Art Unit

2859

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☒ Claim(s) 5 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 September 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. ____.                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>30MAR06</u> .   | 6) <input type="checkbox"/> Other: ____.                          |

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "a measuring system" as stated in lines 5-6 of claim 1 and line 4 of claim 4 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

2. Claim 5 is objected to under 37 CFR 1.75(c) as being in improper form. See MPEP § 608.01(n). Accordingly, the claim 5 has not been further treated on the merits.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kammleiter et al. (US 4,895,454).

Kammleiter et al. disclose a measuring system including the following:

- a) a spindle (105) for receiving a machine tool (106) which is capable of being moved in order to interact with the device in order to deduce, according to a measuring system (102) specific to said spindle (Fig. 1), the dimensions of the tool (column 3, lines 22-27), characterized in that it consists of a bar (101) made of a material (Fig. 1), one of these ends of which is fixedly attached to a yoke (109) attached to a fixed frame (108) and its opposite free end is in contact with two detectors placed perpendicular to one another (103) and to a yoke capable of sliding on the bar (Fig. 1) that is overhung by a platform (104) on which said tool to be measured is capable of resting (Fig. 1);
- b) the bar has a square cross section (Fig. 1);
- c) the detectors are micrometric end-of-travel detectors (103), one of which is placed vertically in order to determine the length and the other is placed horizontally in order to determine the diameter (Fig. 1);
- d) each of the detectors is connected to a measuring system (102) specific to the positions of the spindle thus making it possible to break contact with the bar, to deduce the dimensions of the tool (Fig. 1).

Kammleiter et al. do not disclose a material having highly elastic properties.

Regarding claims 1-2: Kammleiter et al. disclose the a bar having a material (101). The particular type of material used to make the bar, absent any criticality, is only considered to be

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the use of a “ preferred ” or “ optimum ” material out of a plurality of well known materials that a person having ordinary skill in the art at the time the invention was made would have find obvious to provide using routine experimentation based, among other things, on the intended use of Applicant’s apparatus, i.e., suitability for the intended use of Applicant’s apparatus. See In re Leshin, 125 USPQ 416 (CCPA 1960 ) where the court stated that a selection of a material on the basis of suitability for intended use of an apparatus would be entirely obvious. Therefore, one skilled in the art would change the type of material of the bar in order to suit the needs of the user of the device.

### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant’s disclosure.

The prior art cited on PTO-892 and not mentioned above disclose a measuring system:

Jacobs et al. (US 6,438,857 B2)

Stemple (US 3,774,311)

Schiler (US 3,823,482)

Culver (US 3,740,856)

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tania C. Courson whose telephone number is (571) 272-2239. The examiner can normally be reached on Monday, Wednesday and Thursday from 10AM to 5PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego Gutierrez, can be reached on (571) 272-2245.

The fax number for this Organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



DIEGO F.F. GUTIERREZ  
SUPERVISORY PATENT EXAMINER  
GROUP ART UNIT 2859

TCC  
October 6, 2006